

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEBRASKA  
COURT FILE NO.: 8:09-CV-00073**

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David Randall,

Plaintiff,  
vs.

Midland Funding, LLC,  
Messerli & Kramer, P.A.,

**DEFENDANTS' ANSWER TO  
PLAINTIFF'S AMENDED  
COMPLAINT AND DEMAND  
FOR JURY TRIAL**

Defendants.

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**TO: PLAINTIFF DAVID RANDALL, THROUGH HIS ATTORNEYS, WILLIAM L. REINBRECHT AND PAMELA A. CAR, 8720 FREDERICK ST. #105, OMAHA, NE, 68124:**

**DEFENDANTS MIDLAND FUNDING, LLC, AND MESSERLI & KRAMER, P.A. FOR THEIR ANSWER TO PLAINTIFF'S COMPLAINT, STATE AND ALLEGE AS FOLLOWS:**

1. Defendants deny each and every matter, thing and allegation set forth in

Plaintiff's Complaint except as hereinafter specifically admitted, qualified or alleged.

2. As to paragraph 1, Defendants admit as to the enumerated statutes, and

deny as to "other provisions of the law."

3. As to paragraph 2, Defendants deny.

4. As to paragraph 3, Defendants are without knowledge or information sufficient to form a belief as to the truth thereof, and therefore deny.

5. As to paragraph 4, Defendants admit that Defendant Midland is a limited liability company. Defendants deny the remainder of the paragraph.

6. As to paragraphs 5-6, Defendants deny.

7. As to paragraph 7, Defendants admit.

8. As to paragraph 8, Defendants deny.

9. As to paragraph 9, Defendants admit that Defendant Messerli sent Plaintiff the letter attached as Exhibit B. Defendants deny "knowing of Plaintiff's dispute and his representation by counsel," and deny the remainder of the paragraph.

10. As to paragraph 10, Defendants deny. Defendants assert that neither were required to send validation, nor were they required to cease attempting to collect the debt, as Plaintiff had not disputed the debt in writing.

11. As to paragraphs 10-17, Defendants deny.

#### **AFFIRMATIVE DEFENSES**

1. Plaintiff has failed to state a claim upon which relief can be granted.

2. Plaintiff's claims are barred by the bona fide error provision of the Fair Debt Collection Practices Act. 15 U.S.C. § 1692k(c).

3. Defendants reserve the right to assert any and all other defenses as set forth in the Federal Rules of Civil Procedure which discovery reveals to be applicable.

**WHEREFORE**, Defendants pray that Plaintiff take nothing against them by this pretended cause of action, that the same be dismissed and Defendants request a judgment

against Plaintiff in an amount equal to Defendants' attorneys' fees, costs and disbursements herein.

**MESSERLI & KRAMER, P.A.**

Dated: July 29, 2009.

By:s/ Truman Schabilion  
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ATTORNEYS FOR DEFENDANTS